

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/791,377
Filing Date: March 2, 2004
Applicant: M. Dantus et al.
Group Art Unit: 2828
Examiner: D. Ruiz
Title: LASER SYSTEM USING ULTRA-SHORT LASER PULSES
Attorney Docket: 6550-000057/CPE

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

**RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT, AND
RESUBMISSION OF ELECTION AND PRELIMINARY AMENDMENT**

Sir:

ELECTION

This is in response to the Notice of Non-Compliant Amendment dated December 14, 2007 and the restriction dated December 19, 2006. Applicants' representative hereby provisionally elects the alleged Species IV, Figure 15, with traverse. The embodiment of Figure 15 closely overlaps that of Figure 13, especially when the claims are considered. Given this similarity and the expected overlap of searching classes/subclasses, it is respectfully requested that the Examiner reconsider the restriction and recombine at least Species IV and II. Furthermore, the restriction of

Species I-IV, Figures 7, 13, 14 and 15, does not make sense since the hardware shown therein can be used with any of the medical end use species; for example, see Paragraph Nos. [0111]-[0113] in combination with Paragraph Nos. [0119] and [0128]-[0131] of the application.

Moreover, the Examiner has not set forth a *prima facie* case supporting the restriction. Thus, again reconsideration is respectfully requested.

Notwithstanding, Applicants' Representative believes that the following claims read on Species IV, Figure 15: 1-5, 7-9, 11, 14, 26-54, 56, 57, 59, 60, 63, 65, 66, 68 and 70-99. At least the following claims are believed to read on both Species IV and II: 1-5, 7-9, 11, 26-29, 31, 53, 54, 56, 57, 59, 60, 65 and 70-99. Finally, at least the following claims are believed to be generic to all of the alleged species: 1-4, 7, 8, 53, 54, 59, 60 and 70-99.

In response to the Notice of Non-Compliant Amendment, BPS and MIIPS are commonly used together and are absolutely not "mutually exclusive" as alleged by the Examiner (although some of the claims may not necessarily be limited to such combined use unless so specifically claimed). Support for the combination is in at least Paragraph Nos. [0073], [0089], [0098], [0111], [0119], [0134] and [0135], and at least Claims 3, 26 and 53, of the originally filed application.

Therefore, the previously filed Election was entirely compliant and responsive. Even if the Examiner disagrees with the BPS and MIIPS issue, the prior Election was nonetheless compliant. Accordingly, the Examiner is respectfully requested to note such in the USPTO's files so Applicant is given full patent term extension credit for the prior Election filing.

PRELIMINARY AMENDMENT

Prior to examination of the present application, please consider the following.

Amendments to the Claims begin on page 4 of this paper.

Remarks begin on page 21 of this paper.